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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE SUPREME COURT’S ORIGINAL JURISDICTION
CONCERNING A PETITION FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case Nos. 2025-002120 and 2025-002121

John A. Tibbs and Margaret B. Tibbs,..... Plaintiffs,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AIW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited ASCO, L.P.; Atlas Asbestos Co.; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas CT, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated;

Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Incl; SPX Corporation; Stafford Insulation Company; Standard Insulation Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis Company of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable, LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves and Controls US, Inc.; Velan Valve Corp.; Viking Pump, Inc; Vistra Intermediate Company LLC; The William Powell Company; Wind Up, Ltd.; Yuba Heat Transfer LLC; and Zurn Industries, LLC, Defendants,

of which

Asbestos Corporation Limited is the..... Appellant,

and

Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas,..... Third-Party Plaintiff/ Respondent,

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa Ltd.; DeBeers PLC; DeBeers Centenary AG; DeBeers Consolidated Mines Ltd.; DeBeers S.A.; DeBeers UK Ltd.; DeBeers Jewelers US, Inc.; Angle American US Holdings Inc.; Element Six US Corp.; Element Six Technologies US Corp.; Element Six Technologies (OR) Corp.; First Mode Holdings, Inc.; Platinum Guild International (USA) Jewelry Inc.; Forevermark US Inc.; Anglo American Crop Nutrients (USA), LLC; Charter Consolidated Ltd.; ESAB Corporation; Central Mining & Investment Corporation Ltd.; Cape Holdco Ltd.; The Law Debenture Corporation PLC; Cape Industrial Services Group Ltd.; Mohed Altrad; Altrad UK Ltd.; Cape UK Holdings Newco Ltd.; Altrad Services Ltd., f/k/a Cape Industrial Services Ltd.; Altrad Investment Authority SAS; Sparrows Offshore Group Ltd.; Hawk Bidco US Inc.; Arranco US, LLC; Sparrows Offshore, LLC; The Sparrows Group, LLC, Third-Party Defendants,

of which

Charter Consolidated Ltd.; ESAB Corporation; Central Mining & Investment Corporation Ltd; Mohed Altrad; and Altrad Investment Authority SAS, are, in their respective cases, the..... Petitioners.

RESPONSE TO MOTION TO EXTEND BRIEFING DEADLINES

The Altrad Petitioners take no position on the motion to extend their briefing deadline on the return to the petitions for extraordinary writs, which the Court has already granted in part. But as the Court considers how to manage these matters, including requests for extending briefing deadlines, it should be aware that the putative Receiver has engaged the circuit court to approve a settlement contract (purportedly in the name of Cape Intermediate Holdings Limited) that attempts to give the putative Receiver the ability to waive service of claims against CIHL and invite lawsuits against it in South Carolina.

CIHL is an active English company that is not a party to this case, it has never been properly served with process in any case in this State, and its executives have forbidden the putative Receiver from attempting to do anything in CIHL’s name. And in *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 667, 916 S.E.2d 320, 334–35 (2025), *petition for cert. filed at Case No. 25-213* (U.S. Aug. 18, 2025), this Court reversed the circuit court on precisely the question of whether a receiver could undertake “boardroom” activities, such as entering into contracts or executing on litigation decisions in the company’s name.

On October 22, 2025, the Clerk’s Office notified the Respondents that their returns to the Petitions were due within 10 days—Monday, November 3, 2025.

With this Court’s scrutiny imminent, the putative Receiver filed on Tuesday, October 28, 2025, a series of documents that appear designed to effectuate the seizure of CIHL’s boardroom before this Court has an opportunity to address the core issues raised in the Petitions: namely, the

putative Receiver’s lack of authority and the circuit court’s lack of jurisdiction. Those filings are in both *Tibbs* and *Park* and include: (1) motions to approve a confidential settlement agreement, which is not a private contract between two commercial entities, but instead purports to establish a “qualified settlement fund” in the name of CIHL and purports to give the putative Receiver authority to waive service of process for future lawsuits against CIHL, all over CIHL’s objection;¹ (2) motions to pay the putative Receiver 40% of the proposed settlement proceeds as well as additional fees as “manager” of the “qualified settlement fund”; and (3) motions to seal that activity from public view.

So that the Court can have full awareness of the proceedings below as it manages this litigation, the Petitioners are attaching copies of those filings, along with objections promptly filed by the Petitioners and a response by the putative Receiver (which essentially argues that, in the putative Receiver’s view, the ends justify the means, irrespective of the law).

In the interest of judicial economy and to help protect its own jurisdiction from being impaired by litigation activity below, the Court may consider taking some measure to pause trial-level proceedings in order to maintain the status quo during the pendency of the Court’s consideration in its original jurisdiction. *See, e.g., Climer v. Loftis*, Appellate Case No. 2025-00111 (S.C. Sup. Ct. Order June 25, 2025) (enjoining disbursement of funds to legislators while the Court considers in its original jurisdiction the constitutionality of a proviso that potentially increases legislative pay).

¹ Because the putative Receiver is not recognized as a matter of English law, the English Court described any proposed settlement that a party wished to enter with the putative Receiver as “a present” to him. *CIHL v. Protopapas* [2025] EWHC 2706 (Ch), ¶ 23(iii). The English Court also noted that any party attempting to make such a contract with the putative Receiver may expose itself to tort liability. *Id.* ¶ 41.

The absence of such interim relief will not render these proceedings moot, but it may make it significantly more burdensome for the Court to unwind a series of transactions below as it examines the Petitions. Judicial economy suggests that an interim stay or interim injunction may be beneficial to the Court’s overall management of these proceedings, particularly with the serious complications (and Due Process problems) that arise when the putative Receiver attempts to accept service of process on behalf of active foreign companies.

Just yesterday, the U.S. Bankruptcy Court for the Southern District of New York noted the serious concerns that had arisen from the Receiver’s attempts to accept service of lawsuits on behalf of a Canadian company following an appointment in the Asbestos Docket. *See In re Asbestos Corp. Ltd.*, Case No. 25-10934 (MG), 2025 Bankr. LEXIS 2795, at *9–10 & n.3, *29–30 (Bankr. S.D.N.Y. Oct. 29, 2025) (recognizing the propriety of Canadian bankruptcy proceedings commenced by ACL in the wake of the Receiver attempting to accept service on the company’s behalf and then failing to protect its interests, and noting that the serial appointments of the putative Receiver in the South Carolina Asbestos Docket “has come under question by various courts, both domestically in *In re Whittaker Clark & Daniels, Inc.*, 152 F.4th 432 (3d Cir. 2025), and internationally in *Altrad Investment Auth. SAS v. Protopapas* [2025] EWHC 2470 (Ch)”) (cleaned up). An interim suspension of the proceedings below could stem the expansion of problems like this arising while the Court considers the Petitions.

Again, the Altrad Petitioners do not oppose a modest extension of briefing deadlines, but would respectfully request that the Court take notice of the recent activity below and consider taking interim measures to preserve the status quo while it evaluates the Petitions.²

² As always, the Petitioners are not waiving, but instead continue to specifically preserve, all objections to these proceedings, including in particular the absence of personal jurisdiction.

Respectfully submitted,

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